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Before Final - Official

Practitioner's Docket No.: 802_004 CON

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Patrick T. PRENDERGAST and Paul ARMSTRONG

Ser. No.: 10/612,476

Art Unit: 1614

Filed: July 2, 2003

Examiner: Raymond J. Henley, III

Confirmation No.: 7731

For: DITHIOLTHIONE COMPOUNDS FOR THE TREATMENT OF NEUROLOGICAL DISORDERS AND FOR MEMORY ENHANCEMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 4, 2004 under "EXPRESS MAIL" mailing label number EV 60707 1816 US.

Jarret M. Stevens
Jarret M. Stevens

**RESPONSE TO RESTRICTION AND
ELECTION OF SPECIES REQUIREMENTS**

Sir:

In response to the Restriction Requirement contained in the Office Action mailed May 4, 2004, the Applicants hereby provisionally elect, with traverse, to prosecute the claims of Group I (claims 1-44 and 62-64) in this application.

The Applicants respectfully traverse the Restriction Requirement since the subject matter of claims 1-71 is sufficiently related that a thorough and complete search for the subject matter of the elected claims would necessarily encompass a thorough and complete search for the subject matter of the non-elected claims. Thus, it is respectfully submitted that search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is clearly stated that "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits." It is respectfully

submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to applicants and improper duplicative examination by the Patent Office.

The May 4, 2004 Office Action includes a Statement that "[a]pplicant is required under 35 U.S.C. §121 to elect a single disclosed species, (i.e., a subgenus and a species from the compounds and a specific therapeutic use) . . ." In response to this statement, the Applicants hereby provisionally elect, with traverse, oltipraz as a species from within the group of compounds within the scope of the claims. In addition, in response to the above-quoted statement, the Applicants hereby provisionally elect, with traverse, compounds which chelate with, or form a complex with, one or more divalent or trivalent metal ions as a subgenus within the group of compounds recited in claim 1, although it is respectfully noted that there is no requirement for an applicant to elect a subgenus as well as an ultimate species. In addition, in response to the above-quoted statement, Applicants provisionally elect, with traverse, neurodegenerative disorders as a species within the scope of therapeutic uses claimed in the present application.

If the Examiner believes that contact with Applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call Applicants' attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

Respectfully submitted,



Kevin C. Brown
Reg. No. 32,402

November 4, 2004

Date

KCB:jms

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